

(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Chiquet-Ehrismann <i>et al.</i>	)	Confirmation No: 1199
		)	
Serial No.:	10/509,009	)	Group Art Unit: 1643
		)	
Filed:	May 3, 2009	)	Examiner: Anne Gussow
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For:	TENASCIN-W COMPOSITIONS AND USES THEREOF	)	Docket No. FM-05-US

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**COMMUNICATION REGARDING DISMISSAL OF PATENT TERM  
ADJUSTMENT REDETERMINATION UNDER WYETH (POSSIBLE  
PTO ERROR)**

Office of Patent Legal Administration  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicants respectfully request that the United States Patent Office redetermine the Patent Term Adjustment due on the above-identified U.S. patent application. The above-identified application issued as U.S. Patent No. 7,683,159, on **March 23, 2010**.

The reported PTA term of adjustment of 640 days reported on the Issue Notification may be incorrect even though the Issue Notification considers the “B” delay separately. Under *Wyeth v. Kappos* (Case No: 2009-1120, January 7, 2010), the “B” delay is considered separately for PTA calculation purposes but takes into account any overlap between an “A” delay and a “B” delay. Pursuant to the duty of candor, it is believed that the Applicants may have a total adjustment of 634 days, instead of 640 days. Here, the Applicants incur a B delay of 679 days of PTA which commences from the day after the three year pendency date of 09/27/2007 and ends on the RCE date of 8/06/2009, which tolls any further “B” delay. Moreover, it is believed that there is “an A” delay of 9 days (i.e., from 04/30/2009 to 05/06/2009) which overlaps with the “B” delay of 679 days. Thus, the correct net PTA to be reported on the issued patent, after taking into account the applicants’ delays of 187 days, a total “A” delay of 148 days, the “A” delay overlap with the “B” delay, and the time consumed by the Notice of Appeal should be now 634 days.

If there are any other errors in the calculation of the Patent Term Adjustment, the Applicants respectfully request the PTO to correct. The Applicants' representative believes that this calculation of 634 days may be correct, based upon a reading of the rules and case law and discussions with attorneys from the Office of Patent Legal Administration. Should this not be the case, the Applicants respectfully request a correction.

As the Applicants believe that this may be PTO error and this communication is pursuant to the duty of candor, Applicants do not believe that there should be a fee associated with this Communication. Should this not be the case, and there are any other additional fees are presently required, or required during the pendency of this application, the Commissioner is authorized to charge any additional fees, if needed, or credit any overpayment, to deposit account No. 50-4255. If there are any questions, especially ones relating to payments or this response, please contact the undersigned, or if the undersigned is not available, please contact Tom Hoxie. Please do not leave voicemails at the undersigned's phone number.

Respectfully submitted,

Date 5/3/10

  
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